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FILED
DISTRICT COURT OF GUAM
APR 24 2007
MARY L.M. MORAN
CLERK OF COURT

7 Attorneys for United States of America

8 UNITED STATES DISTRICT COURT
9 TERRITORY OF GUAM

10			
11	AMERICOPTERS, LLC.,)	CIVIL NO. 03-00005
12)	
13	Plaintiff,)	
14)	
15	vs.)	REQUEST FOR MODIFICATION
16)	OF DATE FOR REPLY;
	FEDERAL AVIATION ADMINISTRATION,)	AGREEMENT OF THE PARTIES
)	
	Defendant.)	
)	

17 The United States requests an Order modifying the date for the Reply of the United States
18 as set out in the Court's Order (attached). The United States and the Plaintiff have agreed to
19 allow the United States to file its Reply on **April 26, 2007**. The Reply would otherwise be due
20 on April 24, 2007. The United States requests the extra time to consult with the Federal Aviation
21 Administration. The Plaintiff has graciously agreed. The Motion is presently set for hearing on
22 Tuesday, May 8 at 10 a.m.

23
24 So requested this 24th day of April, 2007.

25 LEONARDO M. RAPADAS
26 United States Attorney
27 Districts of Guam and NMI

28 BY: _____

MIKEL W. SCHWAB
Assistant U.S. Attorney

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

JAN'S HELICOPTER SERVICE, INC.,

Plaintiff,

vs.

FEDERAL AVIATION ADMINISTRATION,

Defendant.

Civil Case No. 03-00002

**ORDER RE: MOTION TO STAY DEFENDANT'S
MOTION TO DISMISS AND *EX PARTE*
APPLICATION TO SHORTEN TIME**

This case is before the court on the Plaintiff Jan's Helicopter Service, Inc.'s Motion to Stay Defendant's Motion to Dismiss and *Ex Parte* Application to Shorten Time to Hear Plaintiff's Motion to Stay Defendant's Motion to Dismiss. Pursuant to Local Rule 7.1(e)(3), this matter is appropriate for decision without the need for oral argument.¹

The court notes that Plaintiff's counsel has previously moved for a "stay of proceedings" instead of asking for an extension of time when faced with a looming deadline.² Moving for a stay under such circumstances is improper. In addition, moving *ex parte* to stave off a looming

¹Local Civ.R. 7.1(e)(3) states "[i]n cases where the parties have requested oral argument, such oral argument may be taken off calendar by Order of the Court, in the discretion of the Court, and a decision rendered on the basis of the written materials on file."

²See *Guam Industrial Services, dba Guam Shipyard v. Transatlantic Lines*, Civil Case No. 06-00033, fn. 1. In this case, counsel sought a stay of the proceedings because an opposition was due, the court noted that "[a]fter reviewing Guam Shipyard's submissions the court finds that this motion is more appropriately characterized as a request for extension of time to file an opposition.

1 deadline is an abuse of the process. Counsel fails to explain how needing more time to file an
2 opposition is an emergency or a matter needing the court's urgent attention. Counsel is advised
3 that disrupting the judicial process in this manner may result in the imposition of sanctions.

4 Counsel claims that the Defendant failed to comply with Local Rule 7.1 in setting a
5 hearing date that was acceptable to both the parties. However, that rule does not require that a
6 party ask for oral argument. Only when oral argument is sought must counsel file an Agreement
7 of Hearing Date. Where oral argument is not requested, the opposition is due fourteen days after
8 the filing of the motion. *See* Local Rule 7.1(d)(2). There is nothing to suggest that counsel did
9 not realize that the opposition was due on March 27, 2007 if the matter was not set for a hearing.
10 Under the circumstances, when the Plaintiff realized it would need more time to comply with the
11 rules, it should have properly moved for an extension of time. The court finds no basis for the
12 Plaintiff's motion, and accordingly **DENIES** both the Motion to Stay and the *Ex parte*
13 Application to Shorten Time.

14 However, due to the court's scheduling needs, the court sets the following briefing
15 schedule. The opposition to the Amended Motion to Dismiss or, in the alternative, to Transfer
16 is due on April 17, 2007, and the reply is due on April 24, 2007. The hearing on the motion is
17 hereby scheduled for May 8, 2007 at 10:30 a.m.

18 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Mar 27, 2007

Emmanuel, Jackie O.

From: charles_white@gud.uscourts.gov
Sent: Tuesday, March 27, 2007 5:35 PM
To: charles_white@gud.uscourts.gov
Subject: Activity in Case 1:03-cv-00002 Jans Helicopter Service, Inc. v. Federal Aviation Administration
 "Order on Motion to Stay"

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District Court of Guam

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Case Name: Jans Helicopter Service, Inc. v. Federal Aviation Administration

Case Number: 1:03-cv-2

Filer:

Document Number: 59

Docket Text:

Order denying [55] Motion to Stay, denying [56] Ex Parte Application to Shorten Time. [49] Amended Motion to Dismiss for Failure to State a Claim or, in the Alternative, to Transfer Hearing set for 5/8/2007 at 10:30 AM in 4th Floor Courtroom before Chief Judge Frances M. Tydingco-Gatewood. Oppositions due by 4/17/2007. Replies due by 4/24/2007. Signed by Judge Frances M. Tydingco-Gatewood on 3/27/2007. (vtk,)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:Q:\Input\CV Docs\CV-03-00002-Ord Mtn Stay.pdf

Electronic document Stamp:

[STAMP dcecfStamp_ID=1088563379 [Date=3/27/2007] [FileNumber=51610-0]
 [172861331b714c3523a3ee3e4718addda982c43d6144150e35806496d4a61810713fa
 b96e058acee5ea32d683c6d3adfl77def3d08a2a7828dc7bcc7cde4eb69]]

1:03-cv-2 Notice will be electronically mailed to:

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